

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

AMERICAN SERVICE INSURANCE)	
COMPANY, an Illinois insurance company,)	
)	
Plaintiff,)	Case No. 08 CV 443
)	
v.)	
)	Judge David H. Coar
NAFTA GENERAL AGENCY,)	
UNDERWRITERS MGA, INC., and)	
RAMON VILLARREAL,)	
)	
Defendants.)	

**MOTION TO ENFORCE SETTLEMENT AND LETTER AGREEMENT
AND ENTER JUDGEMENT**

Now Comes the Plaintiff, American Service Insurance Company ("ASI"), by and through its attorneys, Sullivan Hincks & Conway, and hereby moves this Honorable Court to Enforce the executed Settlement Agreement and Letter Agreement entered into in this case and enter Judgment, jointly and severally, against the Underwriters MGA, Inc. ("UMGA"), NAFTA General Agency ("NAFTA"), Ramon Villarreal, an individual, and Daniel Hernandez, an individual, as required under said Settlement and Letter Agreements. In support of its Motion, ASI states as follows:

INTRODUCTION

This Motion is filed to enforce a Settlement and Letter Agreement entered into to settle the captioned case. A copy of the executed Settlement and Letter Agreement is attached hereto as Exhibits A and B. This Court entered a Temporary Restraining Order on January 22, 2008, and entered a Modified Temporary Restraining Order by agreement of the parties on February 4, 2008, both enjoining the defendants, their officers, agents, servants, employees and persons acting in concert with them, from selling ASI insurance policies pursuant to the Nonresident Program (PMA). The parties then conducted certain expedited discovery and at the request of the defendants, the parties met to discuss settlement of this case in Chicago, without counsel for either side present. As a

result of two days of settlement discussions, the parties reached a Settlement in principle which was memorialized in a written Settlement Agreement and fully executed on March 20, 2008. On April 28, 2008, ASI filed a Motion to Enforce Settlement Agreement and to enter a Permanent Injunction which the court set for May 22, 2008 and then upon motion by new counsel for an extension of time, was reset for May 29, 2008. The parties engaged in certain discussions and on May 29, 2008 entered a Letter Agreement that specifically revised certain provisions of the previously agreed upon and executed Settlement Agreement and this Court then entered, per said Agreements, a Permanent Injunction and the case was dismissed with prejudice.

Per said Settlement and Letter Agreement, NAFTA, UMGA, Ramon Villarreal and Daniel Hernandez agreed to certain amounts due and owing along with payment deadlines by certain dates. This Court retained jurisdiction to enforce the Settlement and Letter Agreements. Per said Settlement and Letter Agreements, in the event that the payments agreed to be paid were not paid by July 31, 2008 and then a final payment due August 15, 2008, then ASI was entitled to an entry of a judgment against UMGA, NAFTA, Villarreal, and Hernandez, jointly and severally, in the amount of any unpaid amounts plus accumulated interest.

NAFTA or UMGA has made any such payments as set forth in the Letter Agreement and currently owes a total of \$225,431.08 which amount includes interest accruing at a 5% per month through August 31, 2008. As of Sept. 1, 2008, another \$10,246.87 will be due and owing. Also, Attached as Exhibit C is the Affidavit of Michael Suerth, CFO of ASI, who has calculated the amounts due and owing and prepared the Excel summary of amounts owed and the calculation of said amounts, which said summary is attached hereto as Exhibit D. ASI has made demand for payment to Hernandez and Villarreal and those demands have been ignored.

Also, per said Letter Agreement, specifically, paragraph 2, in the event that certain payments were not made by July 31, 2008, the revision to the original Settlement Agreement as set forth in paragraph 1 of the Letter Agreement, which removed certain indemnity obligations of Villarreal,

Hernandez, NAFTA and UMGA to ASI, would be deemed void. As those payments have not been made, such revision to the original Settlement Agreement is now void and ASI requests as part of the judgment herein that this Honorable Court order said revision void.

Finally, per paragraph 10 the Agreed Order for Permanent Injunction entered by this Honorable Court on May 29, 2008, a copy of which is attached hereto as Exhibit E, along with Section 5 of the original Settlement Agreement, NAFTA, UMGA, Villarreal and Hernandez, along with ARIMEX, ALMEX, and INTERNATIONAL were to have forwarded all copies of policy records to ASI by August 31, 2008 for the Nonresident program and UMGA and EAGLE MGA, Inc. were to have forwarded all policy records for the Eagle nonstandard program to ASI by August 9, 2008. To date, no policy records have been forwarded for either program to ASI and as such ASI is entitled to a Rule to Show Cause as to why the named parties should not be held in contempt for violating the Court's Order and the Settlement Agreement.

WHEREFORE, American Service Insurance Company respectfully requests this Honorable Court:

1. Enter judgment against UMGA, NAFTA, Ramon Villarreal and Daniel Hernandez, jointly and severally, in the amount of \$225,431.08, plus interest at 5% per month until paid in full;
2. Enter judgment paragraph 1 of the letter Agreement dated May 28, 2008 null and void;
3. Enter a Rule to Show Cause as against NAFTA, UMGA, Ramon Villarreal, Daniel Hernandez, ALMEX, ARIMEX and INTERNATIONAL for their failure to provide copies of policy records for the nonresident program and the EAGLE nonstandard programs.
4. Award American Service Insurance Company attorneys' fees for the filing of this Motion and grant such other and further relief as this Court deems just and reasonable.

Respectfully submitted,

AMERICAN SERVICE INSURANCE COMPANY

By: /s/Matthew P. Barrette

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